

RECEIVED

NOV 07 2019

19-MJ-734 ECW

CLERK, U.S. DISTRICT COURT

ST. PAUL, MINNESOTA

STATE OF MINNESOTA

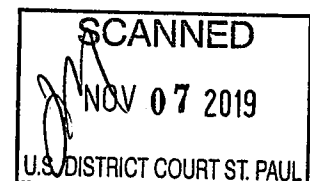
COUNTY OF RAMSEY

AFFIDAVIT OF DAVID CARRIKER

I, David F. Carriker, being first duly sworn under oath, depose and state as follows:

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and have been so employed since August of 2005. I am currently assigned to the St. Paul Group IV Field Office, and work with various law enforcement agencies and drug task forces throughout the state of Minnesota. My duties and responsibilities include conducting criminal investigations of individuals and organizations who are alleged to have violated Federal laws, particularly those found in Titles 18, 21, and 26. I have participated in numerous investigations which have resulted in arrests, searches, seizures, and convictions of individuals who have violated Federal law. I successfully completed the Criminal Investigations Training Program (CITP) and the Special Agent Basic Training (SABT) Program at the Federal Law Enforcement Training Center (FLETC).

2. This affidavit is submitted for the purpose of establishing probable cause in support of a federal criminal complaint and warrant for the arrest of PATRICK LLOYD HENRY ("HENRY"). The facts set forth in the Affidavit are based upon my review of reports, my personal investigation, and discussions I have had with other law enforcement personnel. This affidavit contains information to support probable cause, but is not



intended to convey facts of the entire investigation. Based upon all of the facts and information set forth in this affidavit, your Affiant believes that probable cause exists to believe that HENRY has committed the offense of felon in possession as an Armed Career Criminal, in violation of in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) and 924(e).

### Background

3. On March 12, 2019, at approximately 3:21 a.m. a Rochester Police Department (RPD) officer was on routine patrol near 11th Ave. NE and Center St. E in Rochester, Olmsted County, Minnesota. The officer observed a gold 1999 Oldsmobile Cutlass Sierra (Minnesota license plate 366ULM) in the area. The Sierra proceeded to make several quick turns and appeared to accelerate away from the officer. Deeming the circumstances and observed behavior suspicious, the officer followed the vehicle and observed it turn onto 13th Ave. NE and park on the side of the road in the 700 block of 13th Ave. NE. The officer's impression continued to be that the Sierra's occupants were trying to evade law enforcement contact. The driver of the Sierra also failed to properly use a turn signal as it pulled to the side of the road.

4. The officer activated his lights and sirens to initiate a traffic stop. He approached the vehicle and made contact with the occupants, which included Michael Jaye Kochen (the driver) and PATRICK LLOYD HENRY (front seat passenger). Kochen admitted that his driving status was revoked and that he did not have insurance for the vehicle. When the officer inquired about the failure to signal, Kochen stated there was no relevance to the officer's question. Meanwhile, the officer noticed there was a small rectangular object on

the floorboard of the vehicle, and it appeared to be a digital scale. Kochen became confrontational as the officer continued to speak with him.

5. The officer checked Kochen's driving record and confirmed two prior convictions for driving without insurance. The officer placed Kochen under arrest and searched him incident to that arrest. In Kochen's jacket pocket, the officer located a glass jar containing marijuana (5.48 grams without packaging). The officer placed Kochen in the back of his squad.

6. The officer then made contact with HENRY. As HENRY stepped out of the Sierra, he removed his winter jacket and left it on the front-passenger seat. The officer observed this behavior to be odd, as the temperature was approximately 17 degrees outside. Meanwhile, a separate RPD officer arrived on scene to assist and observed a half-full bottle of vodka on the front-passenger floorboard.

7. The officers conducted a search of the vehicle. The item suspected to be a digital scale was confirmed as such, and it appeared to contain methamphetamine residue. In addition, law enforcement located the following items:

- a. a box of 9mm handgun bullets (front-passenger floorboard)
- b. multiple small baggies (front-passenger floorboard)
- c. digital scale disguised as cigarette pack (under front-passenger seat)
- d. cell phone (under front-passenger seat)

- e. 7 bags of methamphetamine (NIK tested positive for methamphetamine, weighing a total of 186.56 grams)(found inside a sweatshirt on the passenger seat, underneath the winter jacket HENRY took off).

8. Meanwhile, the officers also searched the winter jacket that HENRY took off while getting out of the Sierra. Inside HENRY's winter jacket, officer's found a loaded a Kel-Tec P11 9mm semi-automatic handgun, serial number AA8P42. The Kel-Tec P11 handgun is made by Kel-Tec CNC Industries Inc., a company based in Cocoa, Florida. The Kel-Tec P11 semi-automatic handgun found inside HENRY's jacket on March 12, 2019, necessarily traveled in interstate commerce, as Kel-Tec CNC Industries Inc. also manufactures its firearms in Cocoa, Florida – outside the State and District of Minnesota.

9. Both Kochen and HENRY were transported to the Olmsted County ADC. Shortly thereafter, officers observed HENRY was having a medical reaction of some sort. HENRY admitted that he had consumed methamphetamine, and officers rushed him to a nearby hospital. HENRY remains in custody pending state proceedings.

10. A review of HENRY's criminal history reveals that he has three or more prior convictions for a violent felony or a serious drug offense. More specifically, HENRY has suffered convictions for:

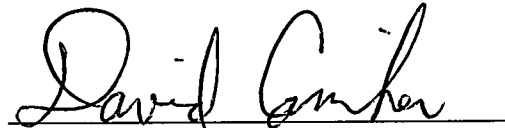
- a. Felony Domestic Assault (July 10, 2012, Olmsted County case number 55-CR-11-8604;

- b. Third Degree Controlled Substance Sale (April 3, 2018, Olmsted County case number 55-CR-17-150, and during which HENRY was also convicted of Felon in Possession of a Firearm); and
- c. First Degree Controlled Substance Sale (April 3, 2018, Olmsted County case number 55-CR-17-4565).


11. Moreover, HENRY was on court terms of supervision when the officers arrested him during the early morning hours of March 12, 2019. More specifically, as part of his sentence for First Degree Controlled Substance Sale on April 3, 2018, an Olmsted County Judge Jeffrey D. Thompson imposed a probationary term as part of HENRY's sanction, specifically a term of thirty (30) years of court supervision with various conditions.

12. Based upon the facts conveyed in this affidavit, your affiant believes that probable cause has been established, demonstrating that on March 12, 2019, PATRICK LLOYD HENRY was unlawfully in possession of a firearm as an Armed Career Criminal, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(2) and 924(e).

Further your Affiant sayeth not.

  
David Carriker  
Special Agent

SUBSCRIBED and SWORN to before me  
this 7<sup>th</sup> day of November, 2019.

  
Elizabeth Cowan Wright  
United States Magistrate Judge